IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO : 13563 of 2004

Between:

1. T. Sreekanth S/o T. Obulesu, RRIQ NO. 176/A, Gooty (R-S), Ananthapur.
2. K. Arun Kumar S/o K.M. Thulasiram Pillai, R/o 24-165, Sathyanarayana Puram, Kongareddy palle, Chittoor Dt.
3. N.S.Rajesh S/o N.K. Sudhakar, R/o D. No. 6-11-194, MCR Colony, Tirupathi.
4. N. Praveen Kumar S/o N. Govardhan, R/o Raketla (PO & Vil) Uravakonda(M), Ananthpur.
5. E. Vinya Kumar Goud S/o E. Bangarappa Gowd, R/o H.No.124, Municipal colony, Rajamundry.
6. M. Chandrasekhar Reddy S/o M. Subareddy, R/o T. Sunduru (PO&MD), Tenali (Ti) Guntur.
7. G. Chinna Krishna Reddy S/o G. Chandrasekhar Reddy R/o 51-92.1,K Rama Puram, Rayachoti, Cuddapah.
8. B. Naveen S/o B, Venkareswar Rao R/o 36-92-3221, Kancharapalem, Visakhapatnam.
9. P. Rajasekhar Reddy S/o P. Subba Reddy R/o Uppaguntala Palli, Mydukur (M), Cuddapah.
10. G.V.V. Raghava Reddy S/o G. Ramakrishna Reddy R/o 6/1437, Sankara Puram, Cuddapah.
11. T. Shakeer Basha S/o T. Hussainpeera R/o Near C.C.V Theater, Urvakonda (V&PO) Ananthapur.
12. C. Kasi Nath S/o C. Devendrudu R/o Marella, Thuggali (M) Karnool.
13. N.V.S. Krishna Kumar S/o N. Rama Rao R/o 5-95, Golla Peta, Near Bigwell, Kakinada.

14. S.Md. Sabeer S/o S. Mastan Vali,
R/o 21/138 A, Kota Street, Nandyal, Karnool.

15. E. Joseph Gopi S/o E.Raj Kumar
R/o 124 Municipal Colony, Rajahmundry.

16. J. Paneendra Kumar S/o O.J. Ramanna
R/o Tanakal (M,V&P) Kadiri (TH) Ananthapur.

17. J. Venu S/o J. Seshanna,
R/o Sreepathirao peta (VI) Atmakur(M), Karnool.

18. D. Himaja Devi D/o D. Nageswara Rao
R/o 3-24-15, Narasarao pet, Guntur.

19. P. Chakradhar Rao S/o P. Ramaprabhu Rao
R/o near Ramalayam, SRBC Colony, Nandyal.

20. A. Sreeshari S/o A. Pitchaiah
R/o Alaganipadu, Vidavalur(M), Nellore.

21. K. Siva Kumar S/o K. Siva Sankaraiah
R/o 5/150, Vijayanagaram Street, Proddutur, Cuddapah.

22. H. Venkateswara Raju S/o H. Vengamaraju
R/o Hastivaripalli Village, Rajampet, Cuddapah.

23. R. Guru Prasad S/o R. Gurrappa
r/o Gandikota, Jammalamadugu (M), Cuddapah.

24. H. Venkat Prasad S/o Sreenivasulu
R/o 5/317, Vijauanagaram street, Produttur, Cuddapah.

25. T. Sudheer Kumar S/o T. Chennakesavulu
R/o 3-277, Puttaparthi, Ananthapur.

26. S. Roshini D/o Syed Jaffer,
R/o 1-337-F2-A1, Viveka Nanda Nagar, Anantapur.

27. B. Sowbhagya Vathi D/o B. Venkataramana
R/o 17/134, Neeruganti Street, Ananthapur.

28. K. Jagadish Kumar S/o K. Sudhakar
R/o 23-221, Amidala Street, Ananthapur.

29. G. Foradose Ali S/o G. Shabber Ali
R/o 19-1-388, Rani Nagar, Ananthapur.

30. N. Madhav Reddy S/o N. Obula reddy
R/o Pothulakunta (V), Kothacheruvu (M),Ananthapur.

(Above mentioned all petitioners are studying B.Tech 2nd Year (ECE) in Moula Ali College of Engineering & Technology, Penukonda, Ananthapur District A.P.)

..... PETITIONERS

AND

1. Yali Moula Educational Society, No. 6-3-1099/A/1/6, Fatima Complex, Somajiguda, Raj Bhavan Road, Hyderabad by its Chairman/Correspondent, Dr. Askari Hasan.
2. Moula Ali College of Engineering & Technology, Penukonda, Ananthapur District A.P., rep by Chairman/Correspondent,
Dr. Askari Hasan.
3. Jawaharlal Nehru Technological University, Kukatpally, Hyderabad rep by its Registrar.
4. All India Council for Technical Education rep by Secretary, Indira Gandhi Sports complex, I.P. Estate, New Delhi-110 002.
5. State of Andhra Pradesh rep by Commissioner of Technical Education, V Floor, BRKR Govt. Offices Complex, Tank Bund Road, Hyderabad-63.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass a Writ, order or direction more particularly one in the nature of Writ of Mandamus against the R4 to take appropriate action against R1 and R2 institutions, as per laws, for not maintaining standards prescribed and thereby contributing for defeat of the objective of the Act of AICTE, and in consequence, direct the Respondents to permit the permanent transfer of petitioner students herein as per their options, along with their original Certificates, as also to take such correctional steps as are needed to save the standards in technological education.

Counsel for the Petitioners: MR.D.SURESH KUMAR

Counsel for Respondents 1 & 2: Mr. S. NIRANJAN REDDY

Counsel for the Respondent No.3: M/S.C.KODANDA RAM

Counsel for the Respondent No.4: MR. S.S. PRASAD

Counsel for the Respondent No.5: G.P. FOR EDUCATION

The Court made the following:

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ORDER:

Thirty petitioners, who are studying in the second respondent college, being run by the first respondent, affiliated to third respondent university, filed this petition seeking their transfer from the second respondent college to any of the engineering colleges

of their choice affiliated to the third respondent, on the ground that the second respondent college is not having even the minimum standards specified for running of an Engineering College. Subsequently, nine (9) petitioners sought permission to withdraw their petition. Now, only 21 petitioners are pursuing the relief sought in the petition.

2. The main contention of the learned counsel for the petitioners is that from the various documents and copies of reports of the inspection committees produced by the petitioners it is easy to see that second respondent college is not having even the basic requirements for running of an Engineering College, and so petitioners and their parents are put to any amount of mental agony, suffering and are worried about their fate and future and so the petitioners may be transferred to any other engineering colleges, which are affiliated to the third respondent university.

3. The contention of the learned counsel for respondents
1 and 2 is that since the Government, which earlier took a decision not to grant permission for establishment of engineering colleges in Urban areas, reversed its decision, and started giving permission for establishment of engineering colleges in urban areas, there is considerable depletion in the strength of students in the engineering colleges being run in the rural areas, and since lack of intake would hamper the good running of an institution, and since the All India Council for Technical Education (4th respondent) extended its approval of the 2nd respondent college with higher intake, it is clear that the second respondent college does have the necessary infrastructure for running an engineering college, and is not as bad as is being tried to be projected by the petitioners, and in any event since question of transferring students from one college to another college is not permissible, petitioners are not entitled to any relief.

4. On an earlier occasion third respondent issued a show cause notice to the 2nd respondent as to why it should not be disaffiliated since it is running the college in temporary sheds, without a Principal and Senior level faculty. Being dissatisfied with the explanation offered by respondents 1 and 2, 3rd respondent, by its order dated 28.12.2002 directed shifting of students studying in the 2nd respondent college in the first and second year B.Tech Courses to other colleges, whereupon respondents 1 and 2 filed W.P.No.324 of 2003 questioning the order of transfer of their students. By an interim order in W.P.M.P.No.435 of 2003 a learned single Judge directed that

transfer of students in

2nd respondent's college should be confined only to those students who opt to go to other colleges. In pursuance of the said interim orders, 58 students of the second respondent college, on their option, were transferred to other colleges affiliated to the third respondent. Subsequently i.e. on 07.03.2003 respondents 1 and 2 gave a representation to the 3rd respondent that the deficiencies pointed out were rectified and so the show cause notice given to them earlier may be withdrawn. Since 3rd respondent did not act on that representation, respondents 1 and 2 filed W.P.No.13602 of 2003 to direct the third respondent to consider their representation, which was disposed of on 11.07.2003 with a direction to the third respondent to consider the representation and re-transfer 58 students who were transferred earlier from the other colleges. Third respondent appointed an expert committee to find out the fact situation. Taking into account the report of the Expert committee dated 22.03.2003, third respondent by its order dated 06.08.2003 modifying its proceedings dated 28.12.2002 and allowed the second respondent college to continue with the students who did not opt to join other colleges pursuant to the option given vide the order in W.P.M.P.No.435 of 2003. The said order dated 06.08.2003 of the 3rd respondent was questioned in Writ Petition No.17505 of 2003 on the ground that it has no power to transfer students from one institution to other institution. By a common order dated 21-04-2004, W.P.Nos.324 of 2003 and 17505 of 2003 were dismissed observing that since 58 students only were transferred to other colleges in pursuance of the interim directions of the Court, and since frequent change of students would cause hardship to them, respondents 2 and 3, who are petitioners therein are not entitled to the reliefs claimed.

5. As held in the common order dated 21.04.2004 passed in W.P.Nos.324 and 17505 of 2003 referred to above merely because an institution is not conforming to the standards prescribed, university, to which it is affiliated, cannot order transfer of students from that institution to another institution. Fourth respondent only can pass orders with regard to the continuation of the institution and university can pass orders with regard to its affiliation to the university and with regard to the students studying in the institution, in case of the affiliation granted to it is withdrawn. So, this Court cannot give a direction to 3rd respondent to transfer the petitioners to any other college, as long as the 2nd respondent is affiliated to the 3rd respondent and the 4th

respondent does not withdraw its approval.

6. The reports of the committees that made inspections earlier and the documents produced by the petitioners do show that second respondent college has several deficiencies. But inasmuch as 4th respondent (AICTE) not only granted approval for continuance of the 2nd respondent college, but increased its intake also for the year 2004-05 with certain directions, I am not inclined to order transfer of petitioners from second respondent college. In any event, order as sought by the petitioners i.e. their transfer to the colleges of their choice, cannot be passed, because it would tantamount to giving a carte blanche to the petitioners, who got admitted into the 2nd respondent college, obviously because they did not get a good rank in the EAMCET examination. If permission as sought by the petitioners is to be granted they naturally would opt to go to the best of the engineering colleges, admission into which they could not secure because of their poor rank, and thereby would be stealing a march over several other students who had obtained much superior ranks than them.

7. One of the contentions raised by the learned counsel for the petitioners is that those of the petitioners who did not withdraw the petition are likely to be subjected to harassment by the authorities concerned in respondents 1 and 2 institutions. Students ventilating their genuine grievance, and seeking a remedy therefore, should not result in harassment to them. If any of the authorities, concerned with the running of the 2nd respondent college, were to harass the petitioners that did not withdraw from this writ petition, because of their filing this writ petition, such petitioners can make a complaint to respondents 3 and 4, who shall enquire into the same and take appropriate action.

8. In the order dated 09.07.2004 issued by the 4th respondent continuing the sanction to 2nd respondent college to 2004-05 with higher intake it is stated that an expert committee would visit the 2nd respondent for checking the compliance report. It is not known whether the Expert committee visited the 2nd respondent college or not. In the facts and circumstances of the case, I deem it fit to direct respondents 3 and 4 i.e. the University and AICTE, to send a team of Experts to inspect the second respondent college (being run by the first respondent) and verify if it has the necessary infrastructure and facilities which are essential for running of an

Engineering college, Principal, regular senior faculty, are available or not and submit a report. Depending on the report, respondents 3 and 4 should take a decision whether to continue the affiliation of the said college and the approval to run the same. While taking such a decision respondents 3 and 4 shall bear in mind that permitting engineering colleges to run without Senior faculty, a permanent Principal and basic amenities and necessary requirements, may be a good business proposition, but not a good thing for the students who aspire to become engineers. By permitting to run the college with such deficiencies, future of not only the students studying therein, but the society at large would be affected because those students may some how be successful in obtaining a degree in engineering by hook or crook. Their usefulness to the society, without proper and necessary study, would be doubtful.

9. Hence, while dismissing the prayer of the petitioners for their transfer to other colleges from the 2nd respondent college, I direct respondents 3 and 4 to appoint an expert committee to visit the

2nd respondent college and take a decision, basing on their report, as expeditiously as possible, at any rate within a period of six weeks from the date of receipt of a copy of this order, about the affiliation and approval of the 2nd respondent. The writ petition is disposed of accordingly. No costs.

(C.Y.Somayajulu, J.)

Date: 14.03.2005

Cvrk

..... REGISTRAR

To

1. Dr. Askari Hasan, Chairman/Correspondent, Yali Moula Educational Society, No. 6-3-1099/A/1/6, Fatima Complex, Somajiguda, Raj Bhavan Road, Hyderabad.

2. The Registrar, Jawaharlal Nehru Technological University, Kukatpally, Hyderabad.

3. The Secretary, All India Council for Technical Education, Indira Gandhi Sports complex, I.P. Estate,
   New Delhi-110 002.

4. The Commissioner of Technical Education, State of Andhra Pradesh, V Floor, BRKR Govt. Offices Complex, Tank Bund Road, Hyderabad-63.

5. 2 CCs to The Government Pleader for Education, High Court Buildings, Hyderabad.

6. 2 CD copies

7. 1 CC to M/SKODANDA RAM

8. 1 CC to MR.SURESH KUMAR